

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of ALEXANDER TOWNES, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CODY TOWNES,

Respondent-Appellant,

and

BRANDY TOWNES,

Respondent.

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UNPUBLISHED

July 17, 2008

No. 282468

Kent Circuit Court

Family Division

LC No. 05-054196-NA

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In the Matter of LOGAN M. TOWNES, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CODY TOWNES,

Respondent-Appellant,

and

BRANDY TOWNES,

Respondent.

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No. 282469

Kent Circuit Court

Family Division

LC No. 05-054198-NA

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In the Matter of KAYDEN TOWNES, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CODY TOWNES,

Respondent-Appellant,

and

BRANDY TOWNES,

Respondent.

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In the Matter of ALEXANDER TOWNES, Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BRANDY TOWNES,

Respondent-Appellant,

and

CODY TOWNES,

Respondent.

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In the Matter of LOGAN M. TOWNES, Minor.

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DEPARTMENT OF HUMAN SERVICES,

No. 282470  
Kent Circuit Court  
Family Division  
LC No. 07-050766-NA

No. 282471  
Kent Circuit Court  
Family Division  
LC No. 05-054196-NA

Petitioner-Appellee,  
  
v  
  
BRANDY TOWNES,  
  
Respondent-Appellant,  
  
and  
  
CODY TOWNES,  
  
Respondent.

No. 282472  
Kent Circuit Court  
Family Division  
LC No. 05-054198-NA

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In the Matter of KAYDEN TOWNES, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,  
  
v  
  
BRANDY TOWNES,  
  
Respondent-Appellant,  
  
and  
  
CODY TOWNES,  
  
Respondent.

No. 282473  
Kent Circuit Court  
Family Division  
LC No. 07-050766-NA

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Before: Murphy, P.J., and Bandstra and Beckering, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court's order terminating their parental rights to the minor children under MCL 712A.19b(3)(b)(i), (b)(ii), (c)(i), (g), (j), (k)(iii), and (k)(v). We affirm the termination of respondents' parental rights.

Respondent Brandy Townes argues that the trial court clearly erred in finding a statutory ground to terminate her parental rights to the children. We disagree. Petitioner is only required to prove one statutory ground for termination under MCL 712A.19b(3) by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). A trial court's finding that a

statutory ground for termination was sufficiently proven is reviewed for clear error. MCR 3.977(J); *In re JK*, *supra* at 209. Deference is given to the trial court's special opportunity to judge the weight of the evidence and the credibility of the witnesses who appeared before it. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

With respect to the twins, Alexander and Logan, the supplemental petition to terminate respondents' parental rights identified two statutory grounds for termination, MCL 712A.19b(3)(c)(i) and (j).

With regard to § 19b(3)(c)(i), Brandy Townes's no contest plea established that the condition that led to adjudication was the nonaccidental trauma sustained by Alexander while in respondents' care. The trial court's finding that Alexander suffered injuries associated with shaken-baby syndrome is consistent with the plea and also supported by the testimony of petitioner's medical experts and the protective services worker, Mark Jewell, who testified that both respondents gave statements at the hospital indicating that they were the only individuals alone with Alexander during the time he received his injuries.

Further, the evidence supports the trial court's finding that Brandy Townes failed to appreciate or accept the reality of Alexander's injuries, despite her participation in counseling. Her compliance with other aspects of the parent-agency agreement did not preclude the trial court from finding that the statutory grounds for termination were proven. An essential element of a treatment plan is that a parent sufficiently benefit from services so that the parent can provide a home where the child will no longer be at risk of harm. *In re Gazella*, 264 Mich App 668, 677; 692 NW2d 708 (2005).

Considering the evidence as a whole, the trial court did not clearly err in finding that the condition that led to the adjudication continued to exist and that there was no reasonable likelihood that it would be rectified within a reasonable time considering the age of the twins. The safety issues presented by the home environment were still present because respondents continued to live together and neither respondent had dealt with the reality that one or both of them were responsible for Alexander's injuries. Although only Alexander sustained injuries, evidence of how a parent treats one child is probative of how that parent may treat other children. *In re Powers*, 208 Mich App 582, 588; 528 NW2d 799 (1995).

We reach this same conclusion with respect to § 19b(3)(j). Considering Brandy Townes's lack of insight into the circumstances surrounding Alexander's injuries and the lack of change in the home environment, the trial court did not clearly err in finding by clear and convincing evidence that there was a reasonable likelihood that the twins would be harmed if returned to her home. Section 19b(3)(j) speaks of "the conduct or capacity" of the parent in relation to the likelihood of harm, so regardless of the possibility that Cody Townes actually committed the act of shaking the child, this provision can and does encompass Brandy Townes on the record presented giving the required deference to the trial court.

With respect to Kayden, we consider the specific statutory grounds for termination alleged in the amended petition, MCL 712A.19(3)(b)(i), (j), and (k)(iii). There is merit to Brandy Townes's argument that termination was inappropriate under §§ 19b(3)(b)(i) and (k)(iii). The former subsection requires proof that the parent's act caused the physical injury or abuse to a child or sibling, and the latter requires proof that the parent abused the child or a sibling.

Although there was clear and convincing evidence that either Brandy or Cody Townes committed the act or abuse of Alexander, the evidence did not indicate which particular respondent was responsible for the abuse. Any error in relying on these statutory grounds was harmless, however, because termination was appropriate under § 19b(3)(j). The only material distinction between the twins and Kayden is that legally admissible evidence was necessary to terminate Brandy Townes's parental rights to Kayden at the initial dispositional hearing. MCR 3.977(E)(3). Brandy Townes does not argue that admissible evidence was lacking. The same evidence that supported termination of Brandy's parental rights to the twins under § 19b(3)(j) also supported termination of her parental rights to Kayden under this statutory ground.

Further, the evidence did not clearly show that termination of Brandy Townes's parental rights was not in the children's best interests. MCL 712.19b(5); *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000). Therefore, we affirm the trial court's decision terminating Brandy Townes's parental rights.

Relying on *In re Mathers*, 371 Mich 516; 124 NW2d 878 (1963), respondent Cody Townes argues that the trial court erred in terminating his parental rights because it is the policy of the law to keep children with their parents if possible. Apart from this general policy, however, parental rights may properly be terminated upon a showing by clear and convincing evidence that a statutory ground for termination exists and that termination is clearly not against a child's best interests. *In re JK*, *supra* at 210-211; MCL 712A.19b(3) and (5).

Cody Townes does not address any of the statutory grounds for termination that were found by the trial court. "The failure to brief the merits of an allegation of error is deemed an abandonment of an issue." *In re JS & SM*, 231 Mich App 92, 98; 585 NW2d 326 (1998), overruled on other grounds *In re Trejo*, *supra* at 353. In any event, it is clear from the evidence that Cody Townes had the same opportunity as Brandy to participate in counseling and other services. As with Brandy, we find no basis for disturbing the trial court's finding that § 19b(3)(j) was established by clear and convincing evidence with respect to all three children.

Further, the trial court's assessment of the children's best interests is not clearly erroneous. *In re Trejo*, *supra* at 356-357. The evidence did not clearly show that termination of Cody Townes's parental rights was not in the children's best interests. Therefore, we also affirm the trial court's decision terminating Cody Townes's parental rights.

Affirmed.

/s/ William B. Murphy  
/s/ Richard A. Bandstra  
/s/ Jane M. Beckering